

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Emily Devaney	Team: Squad #04	CCRB Case #: 202004112	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 06/04/2020 10:40 PM	Location of Incident: Intersection of Washington Avenue and Fulton Street	Precinct: 88	18 Mo. SOL 12/4/2021	EO SOL 5/4/2022	
Date/Time CV Reported Tue, 06/09/2020 1:44 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Tue, 06/09/2020 1:44 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Anthony Mesa	07992	960940	PSA 1

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DI Tania Kinsella	00000	933044	PSA 1

Officer(s)	Allegation	Investigator Recommendation
A.POM Anthony Mesa	Force: Police Officer Anthony Mesa used physical force against § 87(2)(b)	
B.POM Anthony Mesa	Force: Police Officer Anthony Mesa used physical force against § 87(2)(b)	

### Case Summary

On June 9, 2020, § 87(2)(b) filed this complaint with the CCRB by phone.

On June 4, 2020, at approximately 10:40 p.m., § 87(2)(b) was participating in a protest at the intersection of Washington Avenue and Fulton Street in Brooklyn when they observed Police Officer Anthony Mesa from PSA 1 grab § 87(2)(b) by the hair and pull her to the side of the road (**Allegation A: Force**, § 87(2)(g) § 87(2)(b) stepped between PO Mesa and the individual. PO Mesa pushed § 87(2)(b) twice in their back with his baton (**Allegation B: Force**, § 87(2)(g) § 87(2)(b). The investigation was unable to identify or obtain a statement from § 87(2)(b).

The investigation obtained a cell phone video taken by a witness, § 87(2)(b) (Board Review 01). The NYPD Legal Bureau did not locate any body-worn camera videos related to this incident. The nature of the incident did not require the use of BWC as per the Patrol Guide.

### Findings and Recommendations

#### Allegation (A) Force: Police Officer Anthony Mesa used physical force against

§ 87(2)(b) testified that they had been marching with a group of protesters for three or four hours, chanting and marching peacefully until officers stopped them at the intersection of Washington Avenue and Fulton Street (Board Review 02). None of the protesters were acting in a violent manner, nor was anyone throwing anything. After a few minutes, protesters were allowed to leave the scene single file. § 87(2)(b) walked directly behind § 87(2)(b) who appeared to be a Black female with shoulder-length, curly dark hair. The individual walked past PO Mesa. PO Mesa did not say anything to the individual. As the individual passed, PO Mesa grabbed the individual by the hair from behind and pulled the individual toward the side of the road. The individual stumbled but did not fall. § 87(2)(b) did not know if the individual sustained any injuries. § 87(2)(b) did not learn who this individual was.

§ 87(2)(b) stated that officers did not give the group of about one thousand people clear directions (Board Review 03). Some officers told individuals to “move” or “get off the street,” but there was no indication of where to go once the sidewalks were too crowded. § 87(2)(b) saw the individual walking away from police officers when PO Mesa grabbed the individual from behind and pulled her toward the side of the road. PO Mesa grabbed the individual by either her hair or the collar of her shirt. § 87(2)(b) did not see any interaction between PO Mesa and the individual prior to PO Mesa grabbing her. § 87(2)(b) did not observe any injuries on this individual. § 87(2)(b) recorded this incident on his cell phone.

The cell phone video from § 87(2)(b) showed a large group of people, civilians and officers, crowding the intersection (Board Review 01). At the 01:15 minute-mark of the player’s timestamp, PO Mesa approached a group of individuals as § 87(2)(b) walked away from the group. PO Mesa grabbed the individual from behind. PO Mesa grabbed the individual at or above her shoulders. The video is unclear if PO Mesa grabbed the individual’s hair, her clothing, or both. PO Mesa can be seen grabbing § 87(2)(b) at the 01:17 minute-mark. At this time, the individual was standing near the double-yellow lines in the center of the street. PO Mesa pulled the individual toward the left of the frame and released her when she was near a parked car on the side of the street. Aside from the parked car, there did not appear to be any vehicles in the street near the individual or § 87(2)(b) who was walking behind the individual.

PO Mesa testified that an officer in a white shirt instructed officers to clear individuals from the

street to the sidewalks because they were impeding traffic (Board Review 04). PO Mesa did not remember the specific instructions or who gave them. PO Mesa began telling many individuals to move to the sidewalk. As he did, PO Mesa grabbed them by the arms and guided them to the sidewalk. PO Mesa believed that the scene was dangerous because of vehicular traffic. PO Mesa also feared for his and civilians' safety because protesters were throwing items. PO Mesa did not independently recall interacting with § 87(2)(b). When he viewed the cell phone video described above, PO Mesa stated that he did not recall this interaction. PO Mesa stated that, based on the video, he grabbed the individual to move her to the sidewalk and for no other reason. PO Mesa stated that he did not recall where on her body he grabbed the individual.

Similarly, DI Kinsella did not recall the interaction between PO Mesa and the individual (Board Review 05). After viewing the cell phone video, DI Kinsella identified that the clip showed PO Mesa appropriately "guiding" the individual to the sidewalk. DI Kinsella denied that PO Mesa grabbed the individual by the hair. DI Kinsella described the protest as generally unsafe because individuals were throwing glass bottles at officers and individuals were in the street with vehicular traffic.

PO Mesa's and DI Kinsella's testimonies were consistent that there were safety concerns due to vehicular traffic and protesters throwing items. However, neither PO Mesa nor DI Kinsella recalled this incident or were able to describe if there was a specific threat of harm to § 87(2)(b). In contrast, § 87(2)(b) specifically stated that protesters were not throwing items and were otherwise acting peacefully. Given that the video did not show any vehicles near § 87(2)(b) the investigation determined that there was no immediate threat of § 87(2)(b) being struck by a vehicle. The video did not appear to show any airborne items near § 87(2)(b) therefore, the investigation credited § 87(2)(b) testimony that protesters were not throwing items at the time.

§ 87(2)(b) and § 87(2)(b) both described that PO Mesa grabbed § 87(2)(b) without prior interaction or conversation. In addition, the video does not appear to show interaction between PO Mesa and the individual prior to PO Mesa grabbing her. Neither PO Mesa nor DI Kinsella recalled this interaction or were able to say if PO Mesa gave the individual any instruction. Based on this evidence, the investigation determined that PO Mesa did not tell the individual to move to the sidewalk prior to grabbing her.

According to NYPD Patrol Guide Procedure 221-01, officers may use force when it is reasonable to ensure the safety of § 87(2)(b) (Board Review 06). Officers will only use the reasonable force necessary to gain control of a subject while considering a number of factors including, but not limited to, actions taken by the subject; immediacy of the perceived threat or harm to individuals; and the presence of a hostile crowd. When appropriate and safe to do so, officers are required to use de-escalation techniques, such as issuing verbal commands, to safely gain voluntary compliance of a subject in order to reduce or eliminate the necessity of force.

PO Mesa did not issue a verbal command to the individual to de-escalate the interaction. In fact, PO Mesa's first interaction with the individual was to grab her. The investigation was unable to determine if PO Mesa grabbed the individual's hair as alleged. However, the investigation determined that PO Mesa grabbed the individual and pulled her toward the sidewalk based on the testimony and video evidence described above. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation (B) Force: Police Officer Anthony Mesa used physical force against § 87(2)(b)**

§ 87(2)(b) testified that, after PO Mesa pulled the individual toward the side of the road, § 87(2)(b) stepped between PO Mesa and the individual to act as a barrier (Board Review 02). § 87(2)(b) faced the individual and raised their arms at their sides. § 87(2)(b) held their hands open to show that they were not holding anything. § 87(2)(b) did not say anything to PO Mesa. PO Mesa pushed § 87(2)(b) in the center of their back. § 87(2)(b) steadied themselves to keep from falling. PO Mesa pushed § 87(2)(b) again, this time with his hand against their shoulder and baton against their lower back. § 87(2)(b) fell into the individual, and both fell against a parked car. DI Kinsella approached and told § 87(2)(b) and § 87(2)(b) to walk away, which they did.

The cell phone video showed the interaction between PO Mesa and § 87(2)(b) beginning at the 01:20 minute-mark of the player's timestamp (Board Review 01). The video corroborates § 87(2)(b) testimony that PO Mesa pushed § 87(2)(b) twice in the back. The video showed that, at the time PO Mesa pushed § 87(2)(b), § 87(2)(b) was facing away from PO Mesa within approximately two feet of a parked car at the side of the road. There do not appear to be any other vehicles nearby.

§ 87(2)(b) testimony was consistent with § 87(2)(b) testimony and the cell phone video (Board Review 03).

PO Mesa testified that he did not recall interacting with § 87(2)(b) (Board Review 04). PO Mesa stated that he was generally concerned with individuals' safety because of vehicular traffic and items being thrown by protesters. When PO Mesa viewed the video, PO Mesa described that the clip depicted him escorting people to the sidewalk. PO Mesa stated that, based on the video, he pushed § 87(2)(b) because § 87(2)(b) was in the street and for no other reason.

DI Kinsella did not recall this incident (Board Review 05). DI Kinsella also cited general safety concerns due to vehicular traffic and bottles being thrown.

As stated above, officers may use force when it is reasonable to ensure the safety of § 87(2)(b) or to gain control of a subject, per NYPD Patrol Guide Procedure 221-01 (Board Review 06).

§ 87(2)(g)

**Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 07).
- Police Officer Anthony Mesa has been a member of service for four years, and this is the first CCRB complaint to which he has been a subject (Board Review 08).

**Mediation, Civil and Criminal Histories**

- This complaint was not suitable for mediation.
- As of September 25, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this complaint (Board Review 10).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

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Squad No.: 4

Investigator:

  
Signature

Inv. Devaney  
Print Title & Name

11/17/2020  
Date

Squad Leader: Raquel Velasquez  
Signature

IM Raquel Velasquez  
Print Title & Name

11/17/2020  
Date

Reviewer:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Title & Name

\_\_\_\_\_  
Date